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Case No. 2:17-cr-00042-APG-DJA

(ECF No. 200)

Mr. Arnold contends that the January 26, 2017 interrogation by FBI Special Agent Schlumph violated his Fifth Amendment rights. The Government agreed not to use in its case-in-chief Mr. Arnold's statements during that interrogation "or any evidence derived" therefrom. ECF No. 42 at 2. Mr. Arnold wrote the February 2017 letter nearly four weeks after that interrogation. In the interim, Mr. Arnold had an Initial Appearance, was appointed counsel, had a detention hearing, was indicted, was arraigned, and entered a plea. ECF Nos. 1-18. The February 2017 letter was sufficiently removed in time from the January 26, 2017 interrogation to blunt any notion that it was "fruit of the poisonous tree" of that interrogation. Mr. Arnold had counsel to confer with about his rights. The letter is not an extension of his original apology

1 letter. And while the letter could be considered by a jury to be inculpatory, its prejudicial effect
2 does not substantially outweigh its probative value.

3 I THEREFORE grant the Government's motion in limine (ECF No. 200) in part. The
4 Government is not precluded from offering the letter into evidence at trial. But it must first lay
5 the appropriate foundation, establish authenticity, and satisfy any other objections to
6 admissibility.

7 Dated: May 13, 2021.

A handwritten signature in black ink, appearing to read 'A. Gordon', with a long horizontal flourish extending to the right.

ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE